

Small Business Regulatory Fairness Board

Board Meeting – Conference Call
Room 720 Harry S Truman Building
Jefferson City, Missouri
November 14, 2005

Members in attendance: Scott George, Randy Angst, Merrill Wade, Micheal Ocello, Senator Gary Nodler, Maria Guadalupe Taxman

Others: Sharon Gulick, Laura Avery, Daryl Hylton, DED

Chair George called the meeting to order and asked everyone introduced themselves.

Merrill Wade and Sen. Gary Nodler did not receive their packets. Sen. Nodler would like packets to be sent to both home and capital office. Sharon will check to see what the problem is with the mailing list.

Minutes of the October 6, 2005 meeting were reviewed. Mr. Angst moved that the minutes from the October 6th meeting be approved as written. Mr. Wade seconded the motion. Motion approved unanimously.

The chair asked if there were any questions regarding last meeting:

- Mr. Ocello asked for clarification on a couple of points in the legislation:
 - How is company size determined – is it the average number of employees over time or at the time that the company files its comments? Census was that it would be the company size at the time they file a comment with the Board.
 - How will "timely response" by agency be determined? Mr. George said that the legislation allows agencies 60 days to reply to us. In annual report we will grade based on a reasonable response.

Proposed Rules

Daryl Hylton, DED Legal Counsel, discussed two draft SBRFB proposed rules:

- "Small Business Impact Statement Requirements" will require state agencies to provide an electronic copy of rules, in addition to the hard copy, to the Board as well as the Secretary of State and to use the form developed by the Board for the Small Business Impact Statement.
- "Post Public Hearing Small Business Impact Statement" will require agencies to use this format for their impact statements, file an electronic copy with the Board, and differentiates the two statements.

Sen. Nodler returned to question about size of small business and asked if we needed to set out a size determination mechanism by rule and have it addressed by legislation next year. Consensus was that the board will monitor the issue and make recommendations for legislative change if needed.

Mr. Ocello moved for approval of the proposed rule "Small Business Impact Statement Requirements" and Sen. Nodler seconded the motion. Motion approved.

Mr. Angst moved for approval of the proposed rule "Post Public Hearing Small Business Impact Statement" and Ms. Taxman seconded the motion. Motion approved.

DED staff will begin the process of filing the rules.

Staff Report – Sharon Gulick

Ms. Gulick reported that she is working with DED's MIS unit to develop the board website and anticipates that a draft site will be available for board review before Thanksgiving. The website will have electronic comment forms, calendar, meeting notices, approved minutes, contact information, links, list of board members (no contact info on members), rulemaking process, links to state agencies, etc.

Sharon also reported that she is talking to Secretary of State about a notification system. Carl Medley, SOS MIS Director, said that they are interested in modifying/updating their system. Sharon will follow-up with Mr. Medley to get the meeting set.

A meeting with DNR Director Childers and his division heads was held on October 31st. Sharon reported that they are open to what the board is trying to do. They have already incorporated 2004 legislation into their rulemaking manual. Sharon will work with them to address issues changed by the 2005 legislation. They will be at January hearing. Sharon will meet with OA, Division of Purchasing on November 15th.

Mr. George stated that he would like to schedule a meeting with all department heads in attendance. It was agreed that it would be challenging to find a time when all of the directors would be available. It was agreed to table this discussion until the next meeting.

The board reviewed the draft brochure – web address will be added, Laura's name has been cut off, it will be fixed. Consensus was that the brochure was good and that copies should be printed and sent to board members. In addition, staff will develop talking points to aid board members when they make presentations to groups in their area. These materials should be ready by the end of November.

Ms. Taxman suggested that the brochure be translated to Spanish and offered to have it translated and will cover the cost. Sharon will send electronic copy to Maria and they will attempt to have it completed by the end of the year. Maria also suggested it be translated into Chinese – Sharon will talk to Yan Li, in DED's International Program, about the logistics of getting the translation done.

Mr. Ocello asked if agencies are required to notify us if a small business lodges a complaint with them. Mr. Hylton confirmed that they are required to notify the Board if a small business files a complaint. Mr. Ocello then asked about time frame of response, do we grade on that? Statute 536.323 (3) does not specify time frame

but implies that it should be forwarded when it is received and that the agency has to respond to complaint (and us) within 60 days.

Website comment form: e-mail address dropped as required field and a field for cell phone will be added. Mr. Ocello asked if the information provided on the form will be considered confidential. Sharon stated that legislation that created the Board does not provide for confidentiality of Board records, so all information provided to the Board will be considered public information.

Question was raised about how businesses filing complaints with the Board will be protected from retaliation by state agencies. The Board will initially report the complaint to the agency using a case number. But if there are problems with individual decisions we would have to provide name of business in order for agency to verify. Mr. George suggested that if there is retaliation against a small business, the legislators will call hearings to investigate – this is how it is handled on the federal level.

Mr. Ocello inquired about process of public notification and how it will work. 536.323 says that agencies must provide a copy of any petition received from small business to SBRFB and JACR. Relates to how agency produced their impact statement. Agency must respond to petition within 60 days.

January Public Meeting

The Board's first public meeting will be held on January 5, 2005 from 1:00 – 4:00 p.m. in Room 450 of the Governor Office Building, 200 Madison Street, Jefferson City.

Several members requested that a map be sent to confirm the location of the meeting and parking. Sharon will include a map in the meeting packet that will be sent to members about 2 weeks prior to the meeting.

The room will be set with a head table for the Board members, a table facing the head table for the person testifying and 40-50 chairs will be set for the audience. The entire hearing will be taped. State agencies will have 10 minutes to make their presentation and registered speakers will have 5 minutes. Walk-ins will be allowed 3 minutes if time permits. The public will be encouraged to provide written testimony.

Registration will be on a first-come, first-served basis and will cut off on January 2nd (or 20 speakers) after that they will be asked for written comments. Submission of written comment cut off on December 31st to give staff time to copy and prepare meeting packets.

Sharon will send a formal invitation to DNR Director Doyle Childers and Division of Purchasing Director Jim Miluski.

DED's Public Information Office will send out a media advisory after Thanksgiving. The news release will also be send to key organizations asking that they include the

information in their newsletters. Board members will be sent a copy by email to circulate through their contact.

Office of Administration, Division of Purchasing RFP

Members discussed the information provided by Board Member Nancy Tayborn regarding the Division of Purchasing's IT Consulting Contract and the requirement for a \$50,000 security deposit. Mr. George asked if someone will be commenting on this in January public meeting – Sharon will check with Nancy.

Sharon will inform OA tomorrow that this is an issue on which the board will want more information at January meeting.

Future meetings

Census was to hold all future face-to-face Board meetings on the same day as a public hearing; some conference calls may be held in between these public meetings. It was agreed that we would wait to schedule any future meetings until we see what kind of response we get from first hearing and initial comments and that we would try to avoid hearings during the legislative session as we need the members who are legislators at meetings and hearings.

Other Business

George suggested board have informal gathering for lunch prior to the January 5th public hearing. It was agreed that those members who are interested would meet at 11:00 at Madison's Café. Sharon will reserve a table. A RSVP for lunch will be emailed to all members about a week before the meeting to get an accurate lunch count.

Mr. Ocello asked about the Missouri Sunshine Law's requirement for a "custodian of records"? Consensus was that Sharon Gulick will fulfill this role. Mr. Ocello then asked if the Board needed to pass a resolution that affect (reference pages 33-34 in the handbook on the Sunshine Law prepared by the Attorney General's Office). Staff will look into this and put it on agenda if it is required.

Mr. Ocello moved that the meeting be adjourned. Mr. Wade seconded the motion. Motion approved.

Meeting Adjourned

Next meeting: Public Meeting, January 5, 2006

Minutes Approved: